



## APPENDICES

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## APPENDIX A

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# Revised Record Of Decision *Merced Wild & Scenic River Comprehensive Management Plan/Final Environmental Impact Statement*

*Bridalveil Fall*  
Painting by  
Thomas Moran,  
1924  
Courtesy of  
Yosemite Museum

**UNITED STATES DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE**

**REVISED RECORD OF DECISION**

**MERCED WILD AND SCENIC RIVER COMPREHENSIVE  
MANAGEMENT PLAN  
FINAL ENVIRONMENTAL IMPACT STATEMENT**

**Yosemite National Park  
California**

The Department of the Interior, National Park Service (NPS) has prepared this revised Record of Decision (ROD) on the *Merced Wild and Scenic River Comprehensive Management Plan/Final Environmental Impact Statement*, for the Merced Wild and Scenic River in Yosemite National Park, California. These revisions are designed to clarify statements in the original Record of Decision and *Merced River Plan* itself regarding the measurement of corridor and River Protection Overlay boundaries, and to clarify statements in the *Merced River Plan/FEIS* regarding the process to be used by the NPS in complying with Section 7 of the Wild and Scenic Rivers Act. These revisions are editorial. The NPS is not changing its decision regarding the alternative selected for implementation, nor is this Record of Decision modifying that alternative. As a result, there are no new or different impacts associated with the project that require re-evaluation through the NEPA process. All references in the *Merced River Plan* to the National Park Service's decision to use the Army Corps of Engineers definition of "ordinary high water mark" are revised to reflect the official Army Corps of Engineers definition of this term, as found in 33 C.F.R. Section 328.3:

The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Previously, the *Merced River Plan/FEIS* and ROD paraphrased the ordinary high water mark definition as the 2.33-year floodplain. Based upon further review, the National Park Service has determined that this is an inaccurate summary of the official Army Corps of Engineers definition. In order to avoid confusion, the National Park Service will use the official Army Corps of Engineers definition of ordinary high water mark for measuring the extent of the river corridor boundaries and the River Protection Overlay.

The National Park Service will also modify its restatement of Section 7 of the Act with regard to water resources projects that are found to have a direct and adverse impact on

river values. Text in the *Merced River Plan/FEIS* paraphrased Section 7 requirements with regard to Congressional reporting obligations. These statements in the *Merced River Plan/FEIS* are revised to more closely follow the statutory language of Section 7.

This ROD includes a description of the background of the project, a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a listing of measures to minimize environmental harm, and an overview of public involvement in the decision-making process.

## **BACKGROUND OF THE PROJECT**

The National Park Service manages 81 miles of the Merced River, encompassing both the main stem and the South Fork in Yosemite National Park and the adjacent El Portal Administrative Site. In 1987, the U.S. Congress designated 122 miles of the Merced a “Wild and Scenic River” to protect the river's free-flowing condition and to protect and enhance its unique values for the benefit and enjoyment of present and future generations (16 United States Code [USC] 1271). The 81 miles of the Merced managed by the National Park Service is included, in its entirety, in the designation. This designation gives the Merced River special protection under the Wild and Scenic Rivers Act and requires the managing agencies to prepare a comprehensive management plan for the river and its immediate environment.

In January 1997, a major flood caused extensive damage to facilities along the main stem of the Merced River. Many facilities in Yosemite Valley were flooded. The El Portal Road and the main sewer line (under the road) connecting Yosemite Valley to the El Portal Wastewater Treatment Plant also sustained significant damage and required repair and rebuilding. The National Park Service took this rebuilding process as an opportunity to upgrade and widen the road, which has historically been unsafe for travel, and particularly dangerous for bus travel.

A lawsuit was brought against the National Park Service over the adequacy of the environmental assessment for the reconstruction of the El Portal Road. At the time of the road reconstruction, a comprehensive management plan for the National Park Service segment of the Merced Wild and Scenic River had been initiated, but not completed. The U.S. District Court determined that the absence of a river management plan hindered the National Park Service's ability to ensure that projects in the river corridor adequately protect the Merced Wild and Scenic River. The district court's ruling on the lawsuit required the National Park Service to complete a comprehensive management plan for the Merced Wild and Scenic River with August 2000 as the target date for completion.

The *Merced River Plan* is designed to satisfy the Wild and Scenic Rivers Act's requirement for a comprehensive management plan. According to the Act, comprehensive management plans must address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to



achieve the purposes of the Act (16 U.S.C. Section 1274(d)). This same provision also states that comprehensive management plans “shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands.” In designating the Merced as a Wild and Scenic River, Congress further authorized the National Park Service to prepare its management plan for the river by making appropriate revisions to the Park's 1980 *General Management Plan* (16 U.S.C. Section 1274(a)(62)).

The 1980 *General Management Plan* is the overall guiding document for planning in Yosemite National Park. The Merced River Plan was developed in coordination with the *General Management Plan* and does not tier directly off the General Management Plan as do implementation plans. Each of the action alternatives in the *Merced River Plan* would result in some revisions to the *General Management Plan*. For example, the *Merced River Plan's* management zoning, River Protection Overlay, river corridor boundaries and classifications, and the ORVs would amend the *General Management Plan* by establishing additional land use designations that would be considered in future site specific planning. The *Merced River Plan's* Section 7 process and Visitor Experience and Resource Protection program are tools that would augment the goals of the *General Management Plan*. Although the *Merced River Plan* would amend the *General Management Plan* in certain respects, other aspects of the *General Management Plan*, including its five broad goals, remain unaffected. Implementation plans affecting the Merced Wild and Scenic River will need to be consistent with these goals and the management elements contained in the *Merced River Plan*.

As a programmatic plan, the *Merced River Plan* does not specify site-specific detailed actions. Instead, it applies management elements to prescribe desired future conditions, typical visitor activities and experiences, and allowed park facilities and management activities in the Merced River corridor. The *Merced River Plan* establishes seven management elements: boundaries, classifications, Outstandingly Remarkable Values (ORVs), a determination process to comply with Section 7 of the Wild and Scenic Rivers Act, the River Protection Overlay (RPO), management zoning, and the Visitor Experience and Resource Protection (VERP) framework. These management elements were selected because of their ability to address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of the Act as required under Section 1274(d). For example, future development of lands and facilities would be guided by all seven of the management elements, as would resource protection. User capacity would be addressed through the elements of river classification, the River Protection Overlay, management zoning, and the VERP process. The alternatives evaluated in the Environmental Impact Statement were developed using different combinations of these seven management elements.

Alternative 1, the No Action Alternative, represents the current management direction for the Merced River corridor. It is based on the boundaries, classifications, and Outstandingly Remarkable Values for the Merced River corridor as published in the 1996 *Draft Yosemite Valley Housing Plan*. The four action alternatives (Alternatives 2, 3, 4, and 5) are based on a consistent set of Outstandingly Remarkable Values, which have

been further evaluated and revised from those published in the 1996 *Draft Yosemite Valley Housing Plan*. The alternatives vary in their management zoning areas, their specification of river corridor boundaries and classifications, and in their application of the River Protection Overlay.

## **DECISION (SELECTED ACTION)**

The National Park Service will implement Alternative 2 as described in the *Merced Wild and Scenic River Comprehensive Management Plan/Final Environmental Impact Statement* issued in June 2000.

The intent of Alternative 2 is to protect and enhance all ORVs with a focus on integrating the Merced River Plan goal to “protect and enhance natural resources” with the goal to “provide diverse recreational and educational experiences.” Under this alternative, the seven management elements would be used to guide future management decisions affecting the river corridor. Four of the seven management elements are specific requirements of the Wild and Scenic Rivers Act: boundaries, classifications, ORVs, and Section 7. The remaining three management elements (RPO, management zoning, and VERP) were chosen by the National Park Service to further meet the requirements of the Wild and Scenic Rivers Act.

The river corridor boundaries established by this *Merced River Plan* begin at the ordinary high water mark (as defined by the U.S. Army Corps of Engineers in 33 C.F.R. Section 328.3) and extend one-quarter mile on each side of the river, except in the El Portal Administrative Site where the boundary extends out to the 100-year floodplain or the extent of the River Protection Overlay, whichever is greater. (The maps included in the Merced River Plan depict these boundaries.) The river corridor boundaries established in the *Merced River Plan* are based on the existing river channel. The river corridor boundaries established by the *Merced River Plan*, and reflected in its maps, will not be changed to account for every fluctuation in the river channel. However, the National Park Service will continue to allow natural processes to prevail and will consider changing the river corridor boundaries if there is a major shift in the river channel, or significant new information regarding the river channel and the National Park Service's ability to protect and enhance the ORVs is inhibited. If changes are deemed necessary, an environmental compliance process will be initiated and the *Merced River Plan* will be amended or updated as appropriate.

### **Boundaries**

Section 3(b) of the Wild and Scenic Rivers Act indicates that “boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river.” This equates to an average width of one-quarter mile on each side of the river. Alternative 2 implements a quarter-mile boundary on both sides of the river beginning at the ordinary high water mark, except in the El Portal Administrative Site where the boundary is defined by the 100-year floodplain or the extent of the River Protection Overlay, whichever is greater. Of the 81 miles of the river,

about 77 miles would have a quarter-mile boundary under Alternative 2. Management zoning only applies to federal land within these boundaries.

### **Classifications**

The classifications (Wild, Scenic, or Recreational) for the various segments are based on existing conditions in the river corridor. Wilderness areas, which account for approximately 51 miles of the 81-mile river, are classified Wild. Areas with moderate development within the corridor (west Valley and gorge) are classified Scenic. The Scenic areas account for approximately 13 miles of the Merced. The east Valley, Wawona, the El Portal Administrative Site, and the impoundments are classified as Recreational, reflecting the higher level of development in these areas. The Recreational areas account for approximately 17 miles of the Merced. The Cascades Diversion Dam and the Wawona Impoundment would revert to a Scenic classification if and when the impoundments were removed.

### **Outstandingly Remarkable Values**

Outstandingly Remarkable Values (ORVs) are defined by the Wild and Scenic Rivers Act as those characteristics that make the river worthy of special protection. Two vital questions establish the criteria set forth by the Wild and Scenic Rivers Act for selection of ORVs:

- Is the value river-related or river-dependent?
- Is the value rare, unique, or exemplary in a regional or national context?

Both of the above criteria must be satisfied in order for a characteristic to be included as an ORV. The refined ORVs of the Merced meet both of these criteria.

### **Section 7 Determination**

One of the policy objectives of the Wild and Scenic Rivers Act is to preserve rivers in their free-flowing condition, which is defined by the Act to mean a river flowing in its natural condition without impoundment, diversion, straightening, rip-rapping, or other modifications of the waterway (16 USC Sections 1271 and 1286). To further this goal, the Act includes a process for evaluating “water resources projects.” Water resources projects, that is, those that are within the bed or banks of the Merced River and that affect the river's free-flowing condition, are subject to Section 7 of the Wild and Scenic Rivers Act (16 USC Section 1278). The National Park Service must carry out a Section 7 determination on all proposed water resources projects to ensure that they do not directly and adversely affect the values for which the river was designated. Alternative 2 includes a comprehensive process to ensure that all water resources projects are in compliance with the Wild and Scenic Rivers Act.

The *Merced River Plan/FEIS*, includes statements that “Water resources projects that have a direct and adverse effect on the values for a designated river must either be redesigned and resubmitted for a subsequent Section 7 determination, abandoned, or may proceed following written notification of the Secretary of the Interior and the United States Congress.” These references are an inaccurate summary of the intent of the



National Park Service and are hereby clarified with the following process in accordance with Section 7(a) of the Act. Water resources projects found to have a direct and adverse effect on the values of this designated river will be redesigned and resubmitted for a subsequent Section 7 determination or abandoned. In the event that a project can not be redesigned to avoid direct and adverse effects on the values for which the river was designated, the NPS will either abandon the project or will advise the Secretary of the Interior in writing and report to Congress in writing in accordance with Section 7(a) of the Act.

### **River Protection Overlay**

To ensure that the river channel itself and the areas immediately adjacent to the river are protected, Alternative 2 includes a management tool called the River Protection Overlay (RPO). The RPO, in areas above 3,800 feet elevation, includes the river channel itself and extends 150 feet on both sides of the river measured from the ordinary high water mark<sup>1</sup>; and in areas below 3,800 feet elevation includes 100 feet on both sides of the river measured from the ordinary high water mark. The RPO would not apply to private property within the river corridor. The RPO would provide a buffer area for natural flood flows, channel formation, riparian vegetation, and wildlife habitat and would protect riverbanks from human-caused impacts and associated erosion. The RPO is intended to apply the requirements of the Wild and Scenic Rivers Act, including the protection and enhancement of the ORVs and the preservation of the free-flowing condition of the river, at a higher standard than that of the management zones.

### **Management Zoning**

Management zoning is a technique used by the National Park Service to classify park areas and prescribe future desired resource conditions, visitor activities, and facilities. The management zoning in Alternative 2 was developed to protect and enhance the ORVs in each segment of the river, with an emphasis on integrating protection and enhancement of the river corridor's natural and cultural resource ORVs with the protection and enhancement of the diverse visitor recreation ORV in the river corridor. This focus is consistent with Section 1281 of the Wild and Scenic Rivers Act, which states that a protected river "shall be administered in such manner as to protect and enhance the values which caused it to be included in [the] system, without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values." Management zoning does not apply to private property that exists within the river corridor.

Under Alternative 2, nearly 60% of the river corridor has wilderness-related Category 1 management zoning, which severely restricts the development of facilities and will help to ensure that the natural and cultural resources in these segments of the river corridor will remain largely undisturbed and that the area will remain essentially primitive. The majority of land within Yosemite Valley and the Gorge segments of the river corridor, and

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<sup>1</sup> Regardless of where the water's edge is on any given day throughout the year, the RPO is measured from the ordinary high water mark, as defined by the Army Corps of Engineers in 33 C.F.R. Section 328.3.

along the south side of the river in Wawona, is assigned to diverse visitor experience Category 2 management zoning. Category 2 management zoning focuses on protecting and enhancing ORVs while allowing for varied types of visitor use within the river corridor. On one end of the spectrum, certain Category 2 areas will be managed as undisturbed natural areas and at the other end of the spectrum, major park attractions, such as Bridalveil Fall, will be managed to allow for large numbers of visitors. Sections of the east Valley and sections of El Portal are zoned Day Use (2C) to allow for more intensive activities in these areas, while the west Valley and Wawona are zoned Discovery (2B) to provide opportunities for quieter, less crowded visitor experiences and a higher level of resource protection.

Major visitor support facilities, such as lodging and camping, and major administrative facilities are limited to Category 3 management zones, which account for only a small percentage of the river corridor. Category 3 management zoning is used for visitor facilities, such as Housekeeping Camp and Upper Pines, Lower Pines, North Pines, and Wawona Campgrounds. To provide for future flexibility in managing transportation in the Valley, the management zone 3C (Park Operations and Administration), allows for either Camp 6 or Taft Toe to be developed as a transit center and/or parking facility. If either one of these sites were selected, the other site would revert to the zone designation of the surrounding area (Day Use [2C] for Camp 6 or Discovery [2B] for Taft Toe) and would not be used for park operations purposes. If a different site were selected for this purpose that is consistent with the management zoning of Alternative 2, both would revert to their respective base zones. Specific decisions on whether a transit center and/or parking facility would be provided and where it would be located are analyzed in the *Draft Yosemite Valley Plan/SEIS*.

Each management zone prescribes the *maximum* level of activities and facilities. In practice, lower levels of visitor use and facilities may be provided than are allowed for in the management zoning prescriptions. Typical uses in lower-intensity zones are generally acceptable uses for higher-intensity zones. For example, implementation plans (such as the *Yosemite Valley Plan*) could call for less-developed activities such as walk-in camping or protected natural areas in areas zoned for overnight lodging. In this way, the management zones allow future managers to direct development within the zone and these decisions would be based on site-specific conditions as assessed through standard planning processes.

### **Visitor Experience and Resource Protection Framework**

The Visitor Experience and Resource Protection (VERP) framework is a tool developed by the National Park Service to address user capacities and is adopted by the *Merced River Plan* to meet the requirements of the Wild and Scenic Rivers Act for carrying capacity. The VERP framework is in addition to the existing tools used by the National Park Service that address user capacity (e.g., federal and state laws, Title 36 of the Code of Federal Regulations, the overnight trailhead quota system, and the Superintendent's Compendium). Elements of the VERP framework that will be undertaken as part of the *Merced River Plan* include: (1) determination of desired conditions, which are part of the management zone prescriptions; (2) selection of indicators and standards that reflect

the desired conditions; (3) monitoring of the indicators and standards; and (4) implementation of management action when the desired conditions are violated or when conditions are deteriorating and preventive measures are available. The VERP framework protects both park resources and visitor experience from impacts associated with visitor use and helps managers address visitor use issues.

## OTHER ALTERNATIVES CONSIDERED

The *Merced Wild and Scenic River Comprehensive Management Plan/Final Environmental Impact Statement* described five management alternatives, the environment that will be affected by those alternatives, and the environmental consequences of implementing these alternatives. The major topic areas covered in each alternative are related to the park's goals, and include visitor experience and resource protection.

The National Park Service considered four other alternatives in addition to Alternative 2. They are:

**Alternative 1:** The No Action Alternative represents the current management direction for the Merced River corridor. It is based on the boundaries, classifications, and Outstandingly Remarkable Values for the Merced River corridor as published in the 1996 *Draft Yosemite Valley Housing Plan*. The No Action Alternative does not incorporate a management zoning approach, a River Protection Overlay, or a VERP framework. Like each of the action alternatives, management direction for the river corridor would also be based on the 1980 *General Management Plan* and other applicable management plans and guidelines, such as the *Wilderness Management Plan*, *Fire Management Plan*, *Vegetation Management Plan*, *Resources Management Plan*, *Restricted Access Plan*, *Geologic Hazard Guidelines*, *Floodplain Criteria*, and *Standard Operating Procedures on Ending Removal of Fallen Trees from the Merced River*, and boundaries for cultural resources on the National Register of Historic Places (including historic districts).

Requirements of the Wild and Scenic Rivers Act, such as the protection and enhancement of Outstandingly Remarkable Values and compliance with Section 7 for water resources projects, must be followed. However, decisions regarding the potential construction, renovation, repair, and removal of facilities in the corridor would not be subject to management zoning prescriptions or the River Protection Overlay. As a result, future actions would not be guided or constrained in the river corridor by a comprehensive management plan. For example, the impoundment at Cascades Diversion Dam and the Wawona Impoundment could be removed, but there would be no encouragement for these activities. Similarly, additional development in the river corridor, such as parking lots or campgrounds, would not be guided by management zoning and direction. Ongoing programs of the National Park Service would continue, such as restoration of riparian habitats along the river. For purposes of analysis and comparison, this document assumes that certain activities and programs would take place under the No Action Alternative and others would not in the absence of comprehensive management direction.

**Alternative 3:** The River Protection Emphasis with Narrow Corridor alternative focuses on resource protection of the river corridor in the floodplain areas. Alternative 3 emphasizes two of the *General Management Plan's* broad goals of “let natural processes prevail” and “reclaim priceless beauty,” and the *Merced River Plan* goals to “protect and enhance natural resources” and to “protect and restore natural, hydrological, and geomorphic processes.” The management philosophy of Alternative 3 focuses on reducing impacts on natural resources, removing facilities from the floodplain, and restoring the free-flowing condition of the river. Through the active application of management zoning prescriptions and the use of the River Protection Overlay, this alternative encourages the protection and enhancement of natural resource ORVs, and a visitor experience based on individual and small-group activities in the river corridor.

The boundary in this alternative is generally defined by the 100-year floodplain in Yosemite Valley, El Portal, and Wawona (including meadows and wetlands), and by a quarter-mile boundary for the remainder of the river. Under this alternative, wilderness areas and the undeveloped area below Wawona are classified “wild,” and areas with moderate development within the corridor are classified “scenic.” The El Portal Administrative Site and areas with impoundments are classified as “recreational,” reflecting the higher level of development in these areas.

Alternative 3 designates a considerable portion of the river corridor with zoning that restricts new uses and facilities in the river corridor and could lead to removal of existing development in the floodplain. As with Alternative 2, nearly 60% of the river corridor has wilderness-related Category 1 management zoning. The east Valley and Wawona (including adjacent meadows and wetlands) are zoned Discovery (2B), and the west Valley and El Portal are zoned Open Space (2A), with few exceptions allowing for varying intensities of use in these areas. Moreover, several facilities and campgrounds (such as Housekeeping Camp and Wawona Campground) that are partially or completely located in the river corridor are zoned Discovery (2B) and therefore could be removed from the river corridor (floodplain) to restore valuable riparian habitat. The management zoning of Alternative 3 also does not allow for the development of a consolidated parking and/or transit center anywhere in the river corridor, although such a facility could be allowed outside of the corridor. More intensive visitor uses are limited to only a few popular day-use areas, such as Cathedral Beach, Sentinel Beach, and the Wawona Golf Course, all zoned Day Use (2C), and several major destination sites, such as Tunnel View and Happy Isles, zoned Attraction (2D). As in Alternative 2, high-use visitor-serving facilities such as picnic areas and parking would be concentrated near a trailhead, hub, or focused site to accommodate large numbers of visitors interested in the destination.

Like Alternative 2, Alternative 3 relies on the River Protection Overlay to provide maximum resource protection for the river itself and the lands immediately adjacent. The River Protection Overlay provides considerable protection and enhancement of natural resource ORVs and the free-flowing condition of the river.

**Alternative 4:** This alternative emphasizes protection and enhancement of natural resource ORVs and the free-flowing condition of the river while reducing visitor access to the river corridor. Alternative 4 was developed in response to a substantial number of public comments during the scoping process requesting expansion of the boundary for the Wild and Scenic River corridor in order to place more land under the protection of the Wild and Scenic Rivers Act. As such, this alternative emphasizes the *General Management Plan* goals of “let natural processes prevail” and “reclaim priceless beauty” and the Merced River goals of “protect and enhance natural resources” and “protect and restore natural hydrological and geomorphic processes.” Access to, and availability and diversity of, recreational opportunities that exist in the river corridor could be decreased under Alternative 4, while some opportunities could be severely restricted. Alternative 4 attempts to provide maximum resource protection and restoration opportunities by including the largest possible area within the Merced River corridor boundaries, applying restrictive zoning prescriptions to many of these areas, and through the application of the River Protection Overlay.

Alternative 4 applies a quarter-mile boundary throughout the length of the river, the maximum allowed under the Wild and Scenic Rivers Act. Wilderness areas and the undeveloped area below Wawona remain classified “wild,” and areas with moderate development within the corridor (west Valley, gorge) remain classified “scenic.” The El Portal Administrative Site, east Valley, Wawona, and impoundments would be classified “recreational,” reflecting the higher level of development located within the river corridor in these areas once the full quarter-mile is used. For example, in the east Valley, Yosemite Village, most of Yosemite Lodge, and The Ahwahnee are in the quarter-mile corridor.

As with Alternative 2, nearly 60% of the river corridor has wilderness-related Category 1 management zoning. However, to protect and enhance non-recreation ORVs, such as riparian habitat, Alternative 4 applies more restrictive zoning within developed areas of the park (compared to Alternative 2), with few exceptions for more intensive uses. This could result in the removal of facilities such as the Pioneer Yosemite History Center, Housekeeping Camp, and the Trailer Village from the floodplain. Higher-intensity management zones are focused outside the floodplain but are limited in size. Existing development such as Yosemite Village (3C), Yosemite Lodge (3B), the Wawona Campground (3A), and the Wawona Hotel (3B) are zoned to allow for their continued use. However, the management zoning under Alternative 4 could result in an overall reduction in the availability of camping and lodging accommodations in Yosemite Valley since north of Upper Pines, Housekeeping, and Lower Pines are assigned Zone 2B: Discovery, which would encourage their eventual removal. The management zoning in Alternative 4 also does not allow for a consolidated parking and transit center to be developed in the river corridor; this would potentially reduce recreational opportunities by denying access to a large number of visitors who could not be accommodated by the parking and transit facilities otherwise available under this alternative.

Like Alternative 3, this alternative zones most of the west Valley for Open Space (2A), meaning that few visitor-related facilities would be constructed and use levels would be

anticipated to be reduced. It is likely that, under Alternative 4, overall visitor levels in the park and along the river corridor would be restricted, with a possible decrease in the number of visitors that could enjoy the river's ORVs. Opportunities to restore the natural processes of the river corridor, particularly hydrologic and biological ORVs, and to protect sensitive archeological sites, would be maximized under Alternative 4.

**Alternative 5:** The Visitor Experience Emphasis with Wide Corridor alternative provides for diverse visitor experiences and access to Yosemite National Park and the river corridor. Alternative 5 emphasizes the *Merced River Plan* goal of “provide diverse recreational and educational experiences,” and emphasizes access to the recreational ORVs of the Merced River. This alternative also facilitates the implementation of many of the broad goals and recommended actions of the *General Management Plan*, including the relocation of administrative and operational facilities out of Yosemite Valley into the El Portal Administrative Site and the rebuilding of campsites in Yosemite Valley to levels envisioned in the *General Management Plan*. The management zoning prescriptions and criteria would be used to guide management decisions. The River Protection Overlay would not be applied in this alternative, although compliance with the Section 7 determination process and compliance with the management zoning would guide future management actions in the river corridor. These management elements would be used under this alternative to protect and enhance the river's free-flowing condition and ORVs.

Like Alternative 4, this alternative employs a quarter-mile boundary throughout the river corridor. Due to the additional area included in the corridor, the segment classifications under this alternative are different from alternatives that use a narrower corridor. Wilderness areas and the undeveloped area below Wawona would be classified “wild,” and areas with moderate development within the corridor (west Valley, gorge) would be classified “scenic.” The El Portal Administrative Site, east Valley, Wawona, and impoundments would be classified “recreational,” reflecting the higher level of development within the quarter-mile river corridor in these areas.

As with Alternative 2, nearly 60% of the river corridor has wilderness-related Category 1 management zoning. However, zoning in the other parts of the corridor allows for the highest level of visitor use and facility development among the alternatives. Many of the campgrounds and facilities now located in the floodplain (such as Housekeeping Camp, the Upper, Lower, and North Pines Campgrounds, and Wawona Campground) are zoned Camping (3A) or Visitor Base and Lodging (3B) and would be maintained and potentially expanded to the levels in place before the 1997 flood. El Portal is zoned to accommodate additional facilities relocated from Yosemite Valley, such as employee housing, offices, and parking. Wawona is zoned to accommodate relocated maintenance facilities and additional visitor-serving facilities, as specified in the *General Management Plan*.

This alternative allows for the most flexibility for future park development and visitor services. However, Alternative 5 does not provide as much protection of the river and adjacent areas, primarily due to the lack of a River Protection Overlay.



## BASIS FOR DECISION

The *Merced River Plan* was developed within a complex legal framework. The Wild and Scenic Rivers Act states that the National Park Service shall administer rivers under its jurisdiction in accordance with the Wild and Scenic Rivers Act and with the laws under which the National Park System is managed (16 U.S.C. Section 1281(c)). For rivers flowing through wilderness areas, such as the Merced, the Act also requires compliance with the Wilderness Act (16 U.S.C. Section 1281(b)). For either situation, in the case of conflict, the more restrictive law is to apply. The Act also requires the National Park Service to coordinate the comprehensive management plan for the river with the Park's *General Management Plan* (16 U.S.C. Section 1274(d)). In managing the river corridor within the Park and the El Portal Administrative Site, the Act requires the National Park Service to make "... appropriate revisions to the general management plan ..." and to ensure that "... such revisions shall assure that no development or use of park lands shall be undertaken that is inconsistent with the designation ..." of the Merced as a wild and scenic river.

The *General Management Plan* for the Park reflects the mandate of the National Park Service Organic Act, which applies to all units of the National Park System. The Organic Act established the National Park Service in order to "promote and regulate the use of parks...." The Organic Act defined the purpose of the national parks as "to conserve the scenery and natural and historic objects and wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." The Organic Act still provides overall guidance for the management of Yosemite National Park, and the broad goals of the *General Management Plan* remain valid today.

In addition to park lands, the Merced River also flows through the El Portal Administrative Site, which is managed in accordance with the legislation that transferred land within the Site to Yosemite National Park. The Administrative Site was established "in order that utilities, facilities, and services required in the operation and administration of Yosemite National Park may be located on such site outside the park" (16 U.S.C. Section 47-1). In keeping with these legislative purposes, the *General Management Plan* proposed to relocate many facilities from the Valley to El Portal.

In reaching its decision to select Alternative 2, the National Park Service considered the multiple laws and policies that apply to lands within the river corridor, such as the Wild and Scenic Rivers Act, the National Park Service Organic Act, the Wilderness Act, the legislation establishing the El Portal Administrative Site and the Park's *General Management Plan*. The National Park Service also carefully considered the substantial body of public comments received during the planning process.

Each alternative in the *Merced River Plan* presents a different framework for managing the Merced Wild and Scenic River, with some alternatives emphasizing natural resource protection and others emphasizing visitor use of the corridor. The alternatives that are weighted toward one goal in particular, whether it be visitor use or resource protection,

tend to emphasize only certain facets of the myriad laws and policies that apply to lands within the river corridor. For example, alternatives focused on natural resource protection further those provisions of the Wild and Scenic Rivers Act and the Organic Act that speak to natural resource preservation. However, both the Wild and Scenic Rivers Act and the Organic Act also contain provisions allowing for visitor use. As explained below, unlike the alternatives that are weighted toward one goal, Alternative 2 would allow the National Park Service to achieve important resource protection goals while also allowing for appropriate levels and types of visitor use within the river corridor.

The primary feature that distinguishes Alternative 2 from the other alternatives is the interplay of four of its management elements: boundaries, classifications, the River Protection Overlay, and management zoning.<sup>2</sup> Alternative 2 uses a quarter-mile boundary for the river corridor except in the El Portal Administrative Site where the boundary is defined by the 100-year floodplain. Alternative 2 provides a greater area within the river corridor compared to Alternative 3, which uses the 100-year floodplain in Yosemite Valley, Wawona, and the El Portal Administrative Site. Although Alternatives 4 and 5 use the quarter-mile boundary throughout the river corridor, this would result in only a slightly greater area within the river corridor compared to Alternative 2. The classifications are the same for Alternatives 2, 4, and 5. Alternative 3 has a “scenic” classification in east Valley and Wawona, but this scenic classification is only possible because of the narrower river corridor under Alternative 3.

Alternative 2 also provides for a River Protection Overlay, as do Alternatives 3 and 4. This is a distinct advantage over Alternative 5 and the No Action Alternative since the provisions of the River Protection Overlay would result in a buffer area for natural flood flows, channel formation, riparian vegetation, and wildlife habitat. In addition, the River Protection Overlay is intended to protect riverbanks from human-caused impacts and associated erosion.

There are significant differences among the action alternatives in terms of the management zoning each applies to Yosemite Valley, Wawona, and the El Portal Administrative Site. Like Alternatives 3 and 4, the management zoning under Alternative 2 protects and enhances the river corridor's natural resource ORVs. However, the management zoning under Alternatives 3 and 4 does not provide the same level of protection of diverse visitor recreation ORVs within the river corridor that would occur with the management zoning under Alternative 2. Under Alternatives 3 and 4, management zoning would shift emphasis from socially-oriented recreational activities, characterized by spontaneity and group activities, to more individually-oriented activities characterized by solitude and quiet. As a result, the current access to and availability and diversity of recreational opportunities in the river corridor could be decreased and some opportunities could be severely restricted. The recreational

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<sup>2</sup> Three of the seven management elements are treated the same way under each of the action alternatives: the refined ORVs, the Section 7 determination process, and the VERP framework. The differences among the action alternatives are evident in the other four management elements: boundaries, classifications, the River Protection Overlay, and management zoning.

opportunities that could be most directly affected involve non-motorized watercraft, bicycling, and camping. Other opportunities that could be more indirectly affected include hiking, fishing, sightseeing, photography, nature study, climbing, and stock use.

Given its combination of management zoning, boundaries, classifications, and River Protection Overlay, Alternative 2 best enables the National Park Service to protect resources within the river corridor while also ensuring appropriate levels and types of visitor use. This in turn enables the National Park Service to fulfill the mandate of the Wild and Scenic Rivers Act without compromising the National Park Service's ability to manage the Park and the Administrative Site in accordance with other applicable laws and policies.

With regard to the specific factors contained in Section 1274(d), the adoption of Alternative 2 also satisfies the Act's requirements for a comprehensive management plan. Future development of lands and facilities would be guided by all seven of the management elements, as would resource protection. User capacity would be addressed through the elements of river classification, the River Protection Overlay, management zoning, and the VERP process. Resource protection, development of lands and facilities, and user capacity also would be managed pursuant to existing National Park Service authorities in the Code of Federal Regulations (Title 36) and the Superintendent's Compendium, and under general National Park Service policies, such as those pertaining to wilderness and fire management. The combination of these elements will enable the National Park Service to administer the river in a manner that protects and enhances each of the ORVs while allowing for appropriate levels of use and development.

## **ENVIRONMENTALLY PREFERABLE ALTERNATIVE**

Environmentally preferable is defined as “the alternative that will promote the national environmental policy as expressed in the National Environmental Policy Act's section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources” (“Forty Most Asked Questions Concerning Council on Environmental Quality's [CEQ] National Environmental Policy Act Regulations,” 1981).

Section 101 of the National Environmental Policy Act states that “... it is the continuing responsibility of the Federal Government to ... (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; (2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and (6) enhance the quality of renewable resources and approach the

maximum attainable recycling of depletable resources.” The environmentally preferable alternative for the *Merced River Plan* is based on these national environmental policy goals.

Alternative 1 represents the current management direction for the Merced River corridor. It is based on the boundaries, classifications, and Outstandingly Remarkable Values for the Merced River corridor as published in the 1996 *Draft Yosemite Valley Housing Plan*. Since Alternative 1 does not include the River Protection Overlay or management zoning, provisions 3 and 6 of the national environmental policy goals are not fully realized. Although Alternative 1 would provide the greatest protection of cultural resources, this alternative would not result in the same level of protection of natural resources within the river corridor as would occur under the action alternatives.

Alternative 2 strives to integrate the *Merced River Plan* goal to “protect and enhance natural resources,” and the goal to “provide diverse recreational and educational experiences.” Through the use of the River Protection Overlay and its application of management zoning, Alternative 2 would realize each of the provisions of the national environmental policy goals.

Alternative 3 focuses on resource protection of the river corridor in the floodplain areas. Although Alternative 3 emphasizes two of the *General Management Plan*’s broad goals of “let natural processes prevail” and “reclaim priceless beauty,” and the *Merced River Plan* goals to “protect and enhance natural resources” and to “protect and restore natural, hydrological, and geomorphic processes,” this alternative restricts the visitor experience. Thus, Alternative 3 does not meet the national environmental policy goals to the same extent as Alternative 2, and, in addition, does not fully realize provision 5 of the goals.

Alternative 4 promotes the most comprehensive protection and enhancement of natural resources in a broader area of the Merced River corridor. This alternative emphasizes protection and enhancement of natural resource ORVs and the free-flowing condition of the river while reducing visitor access to the river corridor. Alternative 4 attempts to provide maximum resource protection and restoration opportunities by including the largest possible area within the Merced River corridor boundaries, applying restrictive zoning prescriptions to many of these areas, and through the application of the River Protection Overlay. However, like Alternative 3, this alternative restricts the visitor experience and does not fully realize provisions 3 and 5 of the national environmental policy goals to the same extent as Alternative 2.

Alternative 5 provides for the greatest range of diverse visitor experiences and access to Yosemite National Park and the river corridor. However, since the River Protection Overlay would not be applied in this alternative, natural resources would not be as protected and enhanced as under Alternatives 2, 3, and 4. Thus, Alternative 5 does not meet the national environmental policy goals to the same extent as Alternative 2, and, in addition, does not fully realize provisions 4 and 6 of the goals.

The environmentally preferable alternative is Alternative 2 because it surpasses the other alternatives in realizing the full range of national environmental policy goals as stated in Section 101 of the National Environmental Policy Act. Although other alternatives achieve greater levels of protection for cultural resources, natural resources, and/or visitor experiences, Alternative 2 does (1) provide a high level of protection of natural and cultural resources while concurrently attaining the widest range of neutral and beneficial uses of the environment without degradation; (2) maintain an environment that supports diversity and variety of individual choice; and, (3) integrate resource protection with an appropriate range of visitor uses.

## **MEASURES TO MINIMIZE ENVIRONMENTAL HARM**

The National Park Service has investigated all practicable measures to avoid or minimize environmental impacts that could result from implementation of the selected action. The measures have been incorporated into Alternative 2, and are presented in detail in the *Merced Wild and Scenic River Comprehensive Management Plan/Final Environmental Impact Statement*.

To ensure that implementation of Alternative 2 protects natural and cultural resources, ORVs, and the free-flowing condition of the Merced River corridor, a consistent set of mitigation measures would be applied to actions that result from this plan (see Attachment A). These mitigation measures would also be applied to future actions that are guided by this plan. The National Park Service would prepare appropriate environmental review (i.e., National Environmental Policy Act, the National Historic Preservation Act, and other relevant legislation) for these future actions. As part of the environmental review, the National Park Service would avoid, minimize, and mitigate adverse impacts when practicable.

## **PUBLIC AND INTERAGENCY INVOLVEMENT**

The National Park Service published a notice of intent to prepare an environmental impact statement in the *Federal Register* on August 23, 1999 (V64-N162-P45979). The *Merced River Plan/FEIS* has been developed pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91-190) and the Council on Environmental Quality regulations (40 CFR 1508.22). The intent of this planning process is to prepare a comprehensive management plan that encompasses protection and enhancement of the values for which the Merced River was designated as a Wild and Scenic River (16 USC 1271-1287). Through scoping and the public comment review process on the *Draft Merced River Plan/EIS*, the planning process was conducted in consultation with affected federal agencies, state and local governments, tribal groups, and interested organizations and individuals.

The National Park Service invited American Indian tribes to participate in the formal scoping process, and held formal consultation meetings with the North Fork Mono Rancheria, the American Indian Council of Mariposa County, Inc. (Southern Sierra

Miwok), and the Mono Lake Indian Community. These tribes are associated with lands and resources along the main stem and South Fork of the Merced River in Yosemite National Park.

The *Draft Merced River Plan/EIS* was prepared by the National Park Service pursuant to the requirements of the Wild and Scenic Rivers Act and the National Environmental Policy Act. The National Park Service completed the scoping phase through a concerted public involvement effort that included numerous activities. An invitation letter initiating scoping and announcing four public meetings was mailed to over 8,500 individuals, organizations, agencies, and other entities during the week of June 7, 1999. On June 11, 1999 the National Park Service formally published the Merced River Plan scoping period in the *Federal Register* (V64-N112-P31605), accepting comments through July 14, 1999. In deference to public interest, the National Park Service on July 13, 1999 via direct mailing and news release issued a two-week extension of the scoping period through July 30, 1999. Formal notice of the extension appeared in the *Federal Register* on July 23, 1999 (V64-N141-P40037). Altogether six public meetings were held in the following locations: San Francisco (June 22), Modesto (June 23), Mariposa (June 24), Yosemite Valley (June 28), Wawona (July 7), and El Portal (July 12). In addition to direct mailing and the Internet posting, all meetings were publicized via news releases sent to over 110 media contacts on June 3 and July 1, 1999.

As a result of the scoping effort, which elicited over 300 responses, it was determined that an Environmental Impact Statement (not an Environmental Assessment) would be prepared. A Notice of Intent to prepare an Environmental Impact Statement was published in the *Federal Register* (V64, N162, P45979) on August 23, 1999. All comments received during June 11, 1999 through July 30, 1999 in response to the scoping and extension notices have been duly considered and are in the administrative record. For example, the National Park Service updated and refined the boundaries, classifications, and ORVs based on these public comments and new information.

A January 7, 2000 *Federal Register* notice (V65, N5, P1170-71) and media announcements initiated the beginning of a formal public comment period on the draft plan and its environmental impact statement. All interested agencies, groups and individuals were invited to review the document and submit comments.

Public meetings on the draft plan were held in various locations throughout the state from January 31, 2000 to February 15, 2000 during the early weeks of the public comment period. The date, time, and location of each meeting were announced in the *Federal Register* and through the regional/local media.

The comment period for the *Draft Wild and Scenic River Comprehensive Management Plan/EIS* was scheduled to close on March 14, 2000. To accommodate the requests of some organizations and the general public, the National Park Service extended the comment period by ten days and the comment period officially closed on March 24, 2000. Over 2,500 comments were received by mail, e-mail, fax, and at the 12 public hearings held throughout the state in January and February. The National Park Service



received a spectrum of valuable comments from individuals throughout the nation, local residents, long-time Yosemite visitors, government agencies, and interested organizations.

The Merced River planning team reviewed and incorporated comments into the *Merced Wild and Scenic River Comprehensive Management Plan/Final Environmental Impact Statement*. The Content Analysis Enterprise Team (CAET), a division of the U.S. Forest Service, assisted in the sorting and analysis of these comments. A broad range of issues surfaced during the public comment period. Some responses addressed concerns regarding the proposed boundaries, classifications, Outstandingly Remarkable Values, and the River Protection Overlay. Other public comments included suggestions for changes to the management zones to respond to camping, parking, boating, and other river management-related issues. Respondents also requested that the National Park Service provide more specific research and monitoring guidelines in the Merced River Plan, as well as more detail on the Section 7 determination process. A Notice of Availability of the *Merced Wild and Scenic River Comprehensive Management Plan/Final Environmental Impact Statement* was published on July 7, 2000 in the Federal Register (V65, N128, P41083-84).

Following release of the *Merced Wild and Scenic River Comprehensive Management Plan/FEIS* the National Park Service received 27 comment letters. Some expressed support for Alternative 2 - the preferred alternative - and others voiced concern about specific aspects of Alternative 2. After careful review of these comments, the National Park Service determined that no new issues were raised that would require additional response in a NEPA context or require modifications to the Plan.

The National Park Service prepared and approved a Record of Decision implementing the Proposed Action (Alternative 2) on August 9, 2000. Media announcements were made on that date and a Notice of Approval of Record of Decision was published on August 18, 2000 in the *Federal Register* (V65, N161, P50565).

The National Park Service has determined that it is appropriate to make the following clarifications to the management zoning in Alternative 2. These clarifications will be added to the final *Merced River Plan* which should be available by February, 2001.

The management zoning adopted in this alternative only applies to federal lands. With regard to Section 35 in Wawona, though zoned primarily as 3C, Park Operations and Administration, it is the intent of the National Park Service that any other development for administration or operations in Section 35 north of the South Fork of the Merced River would be compatible in character, density, and scale to existing residential and commercial development in Section 35.

For the area zoned jointly 3A/3C on the south side of the South Fork of the Merced River in Section 35, should the National Park Service determine that new, high density housing is not required to be located in this zone, it is the intent of the National Park Service that any development for administration or operations in this zone would be

compatible in character, density, and scale to existing residential and commercial development in Section 35. The potential use of this zone (as described under management zone 3A) would not change.

The Endangered Species Act of 1973, as amended (16 USC 1531 et seq.) requires all federal agencies to consult with the U.S. Fish and Wildlife Service to ensure that any action authorized, funded, or carried out by the agency does not jeopardize the continued existence of listed species or critical habitat. A *Notice of Intent to Prepare an Environmental Impact Statement* was sent to the U.S. Fish and Wildlife Service on August 20, 1999. On September 9, 1999, project staff met with a representative from the Sacramento office of the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service provided a draft letter listing species of concern, based on USGS 7.5-minute quadrangles that encompass the immediate project area, as well as a summary list. A final, augmented list was provided by U.S. Fish and Wildlife Service a week later and included all of the lands potentially affected by the proposed action. Staff wildlife and vegetation specialists used this list as a foundation for endangered species analysis summarized in this plan.

The National Park Service prepared a Biological Assessment in accordance with Section 7 of the Federal Endangered Species Act of 1973, as amended, and implementing regulations (16 USC 1536[c], 50 CFR 402.14[c]), National Environmental Policy Act requirements (42 USC 4332[2][c]), and direction provided in the 1988 *National Park Service Management Policies* (4:11). The Biological Assessment was submitted to the U.S. Fish and Wildlife Service for official review and comment in January 2000. A Final Biological Assessment based on the final *Merced River Plan/FEIS* was submitted to the U.S. Fish and Wildlife Service in June 2000. Copies of the Biological Assessment are on file at Yosemite National Park. On July 11, 2000, the U.S. Fish and Wildlife Service concurred with the National Park Service's determination that the Merced River Plan would not adversely affect federally-listed threatened or endangered species.

An overriding assumption of the Biological Assessment was that each site-specific action included in follow-on implementation plans that could occur after the adoption of the proposed action would be analyzed as required by the National Environmental Policy Act and the Endangered Species Act and that all federal laws would be complied with during implementation. Since the decision made under this EIS is programmatic, no specific commitment of resources is made by the decision. The U.S. Fish and Wildlife Service concurred with this determination that the *Merced River Plan* is a programmatic document. Therefore, a Biological Evaluation and/or Biological Assessment would be made for all site-specific projects, as warranted.

The National Park Service conducted consultation with the California State Historic Preservation Officer and the Advisory Council on Historic Preservation. This consultation, which was done according to the National Park Service's 1999 Programmatic Agreement for compliance with Section 106 of the National Historic Preservation Act, includes letters dated October 19, 1999, February 7, 2000, and March 20, 2000 to the California State Historic Preservation Officer and the Advisory

Council on Historic Preservation. These letters provide the determination by the National Park Service that the selection of Alternative 2 would have no effect on properties listed or eligible for listing in the National Register of Historic Places. This determination was based on the fact that the *Merced River Plan* would allow for, but does not propose, actions that are subject to the Yosemite Programmatic Agreement. The California State Historic Preservation Officer concurred with this “no effect” determination on March 29, 2000.

## CONCLUSION

When taking into account the requirements of the Wild and Scenic Rivers Act, in conjunction with other legal requirements, Alternative 2 provides the most comprehensive and effective method among the alternatives considered for meeting Yosemite National Park's management objectives and for meeting the national environmental policy goals. The selection of Alternative 2, as reflected by the analysis contained in the environmental impact statement, would allow the National Park Service to conserve park resources, provide for their enjoyment by visitors, and would not result in the impairment of park resources.

### Approved:

  
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John J. Reynolds, Regional Director  
Pacific West Region, National Park Service

11/3/2000  
\_\_\_\_\_  
Date

## **ATTACHMENT A**

### **MERCED RIVER PLAN MITIGATION MEASURES**

Attachment A of the Revised Record of Decision has been incorporated into Appendix B of the *Merced Wild and Scenic River Comprehensive Management Plan*.